

California State Senate

SENATOR DON PERATA
MAJORITY LEADER
NINTH SENATE DISTRICT

January 15, 2003



Chairman Karen Getman
Commissioners Swanson, Knox And Downey
Fair Political Practices Commission
428 J Street, Suite 800
Sacramento, CA 95814

Re: January 17, 2003 Commission Meeting
Item #3
Emergency Adoption of Regulation 18530.2
Government Code section 85306

Dear Chairman Getman and Commissioners:

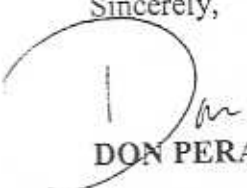
I am writing to strongly oppose the adoption of proposed emergency Regulation 18530.2 by the Commission. As proposed, the regulation is not consistent with either the intent or the clear language of the statute.

As the Chair of the Elections & Reapportionment Committee, and the Majority Leader of the Senate, I know that the intent of Government Code section 85306 was to permit the unrestricted use of funds which were lawfully raised prior to the effective date of Proposition 34. It was based on our understanding of the case law, specifically Service Employees International Union, AFL-CIO, CLC v. Fair Political Practices Commission, 721 F.Supp. 1172 (1989).

Moreover, the language of Section 85306 could not be clearer on this point. It simply permits the use of funds raised prior to the effective date of the contribution limits for those funds without a requirement for attribution to individual contributors. The proposed regulation purports to add restrictions on the future uses of those funds which are simply not present in the statute.

In our view, a regulation is not necessary to implement the statute. However, we would not be opposed to a regulation which provided that a candidate could transfer pre-Proposition 34 funds without attribution to contributors for use in any future state election so long as the candidate used a reasonable accounting method to establish that the funds were in fact possessed by the candidate on the relevant effective date (January 1, 2001 or November 5, 2002).

Sincerely,


DON PERATA

DP:en